UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

21ST CENTURY COMMUNITIES, INC., a Nevada Corporation,

Plaintiff,

v.

MUZLINK, LLC, a California Limited Liability Company,

Defendant.

2:09-cv-02458-LDG-VCF

ORDER

Plaintiff 21st Century Communities, Inc., has filed a renewed motion for leave to amend their complaint (#54, opposition #58, reply #61). The amended complaint would add as individual defendants Phillip Parker and Wayne Williams.

Courts consider four factors in determining whether to grant a motion for leave to amend a complaint: (1) bad faith or dilatory motive; (2) undue delay in filing the motion; (3) prejudice to the opposing party; and (4) the futility of the proposed amendment. Lockheed Martin Corp. v. Network Solutions, Inc., 194 F.3d 980, 986 (9th Cir. 1999). Here, plaintiff moved to amend on January 24, 2011, prior to the deadline for amendments (#28). However, defendant Muzlink, LLC, subsequently filed for bankruptcy, and because it was the only defendant in the action at that time, the court denied plaintiff's motion to amend without prejudice to its refiling after the termination of bankruptcy proceedings (#43).

Considering the above timeline, the court finds that plaintiff's motion is made in good faith and not untimely. The court further finds that granting the motion would not prejudice Parker and Williams as these individuals are members of the corporate defendant and have been on notice of this suit since its inception. Finally, the new claims are based on misrepresentation made to plaintiff prior to entering the loan agreement and related documents, which were executed by Parker and Williams. The claims stated by plaintiff's amended complaint are not futile and their viability must await a factual showing. Accordingly,

THE COURT HEREBY ORDERS that plaintiff's renewed motion to amend the complaint (#54) is GRANTED.

THE COURT FURTHER ORDERS that discovery shall be reopened for a period of 90 days, unless otherwise ordered by the magistrate judge. The parties shall have 60 days thereafter in which to file dispositive motions.

Dated this <u>f</u> day of March, 2014.

Lloyd D. George | | United States District Judge